

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Michael Gazich,)	
)	
Plaintiff,)	
)	
vs.)	Civil Action No. 6:22-cv-4266-TMC
)	
Mark John Harden,)	ORDER
)	
Defendants.)	
)	
)	
)	

Plaintiff Michael Gazich, a pretrial detainee proceeding *pro se* and *in forma pauperis*, filed this action pursuant to 42 U.S.C. § 1983 alleging violations of his constitutional rights. (ECF Nos. 1; 22). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.), this matter was referred to a magistrate judge for all pretrial proceedings. On February 6, 2023, Plaintiff was informed that his complaint was subject to summary dismissal because it failed to state a claim upon which relief may be granted, and that he could attempt to cure the defects by filing an amended complaint within 14 days. (ECF No. 20). On February 21, Plaintiff filed an amended complaint which likewise failed to state a claim upon which relief may be granted. (ECF No. 22). Plaintiff's action alleges § 1983 violations stemming from his arrest for possession of a weapon during a violent crime, criminal sexual conduct first degree, kidnapping, and assault/attempted murder. (ECF No. 22). Plaintiff alleges no injuries but seeks money damages from the defendant. *Id.* At 6.

Now before the court is the magistrate judge's Report and Recommendation ("Report"), recommending that the court dismiss plaintiff's action with prejudice, without further leave to amend, and without issuance and service of process. (ECF No. 26). The Report was mailed to

Plaintiff at the address he provided the court, (ECF No. 27), and has not been returned as undeliverable. Therefore, Plaintiff is presumed to have received the Report. The time for Plaintiff to object to the Report has now expired; no objections have been received, and this matter is ripe for review.

The magistrate judge's recommendation has no presumptive weight, and the responsibility for making a final determination remains with the United States District Court. *Wimmer v. Cook*, 774 F.2d 68, 72 (4th Cir. 1985) (quoting *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976)). Nevertheless, “[t]he district court is only required to review *de novo* those portions of the report to which specific objections have been made, and need not conduct *de novo* review ‘when a party makes general and conclusory objections that do not direct the court to a specific error in the magistrate judge’s proposed findings and recommendations.’” *Farmer v. McBride*, 177 Fed. App’x 327, 330–31 (4th Cir. April 26, 2006) (quoting *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982)). The court may accept, reject, or modify, in whole or in part, the recommendation made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1). However, in the absence of specific objections to the Report and Recommendation, this Court is not required to give any explanation for adopting the recommendation. *Greenspan v. Brothers Prop. Corp.*, 103 F. Supp. 3d 734, 737 (D.S.C. 2015) (citing *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983)).

Thus, having reviewed the Report and the record and, finding no clear error, the court agrees with and wholly **ADOPTS** the magistrate judge’s findings and recommendations in the Report (ECF No. 26), which is incorporated herein by reference. Accordingly, the plaintiff’s action is **DISMISSED with prejudice**, without further leave to amend, and without issuance and service of process for failure to state a claim upon which relief may be granted.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

March 21, 2023
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.